

No.

1661

United States
Circuit Court of Appeals
For the Ninth Circuit.

GUY ROCKWELL and ERCOLE MAGLIONI,
Plaintiffs in Error,
vs.
UNITED STATES OF AMERICA,
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the United States District
Court, for the Southern District of Cal-
ifornia, Southern Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original record are printed literally in italic; and, likewise, cancelled matter appearing in the original record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys:

For Plaintiffs in Error:

GUY L. ROCKWELL, Esq.; STANLEY VISEL,
Esq., 226 California Building, Los Angeles,
California.

For Defendant in Error:

SAMUEL W. McNABB, Esq., United States
Attorney;

DONALD ARMSTRONG, Esq., Assistant
United States Attorney, Federal Building,
Los Angeles, California.

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

UNITED STATES OF)	
AMERICA,	:	
	Plaintiff,	) No. 5739-B Crim.,
	:	
-vs-	)	CITATION ON
	:	WRIT OF
GUY ROCKWELL & ERCOLE	)	ERROR
MAGLIONI,	:	
	Defendants,)

* * * * *

UNITED STATES OF AMERICA * * * * SS
SOUTHERN DISTRICT OF CALIFORNIA
SOUTHERN DIVISION.
TO THE UNITED STATES OF AMERICA,
GREETINGS:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals, for the Ninth Circuit, to be held at the city of San Francisco, in the state of California, within thirty days from date hereof, pursuant to a writ of error on file in the Clerk's office of the District Court of the United States, for the Southern District of California, Southern Division, in that certain cause numbered 5739-B Crim., in said District Court, wherein Guy Rockwell and Ercole Maglioni are plaintiffs in error, and you are defendant in error, to show cause,

if any there *by*, why the judgment given, made and entered against the said Guy Rockwell and Ercole Maglioni, plaintiffs in error, in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Wm P James United States District Judge for the Southern District of California, this Eleventh day of May,, 1925, in the year of our Lord, and of the Independence of the United States, the one hundred and forty ninth.

Wm P James

United States District Judge
for the Southern District of Calif.

[Endorsed]: Original. No. 5739-B Criminal IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA SOUTHERN DIVISION, UNITED STATES OF AMERICA, Plaintiff, -vs- GUY ROCKWELL & ERCOLE MAGLIONI, Defendants CITATION ON WRIT OF ERROR Received copy of the within Citation May 11 1925 Donald Armstrong Asst. United States Atty. FILED MAY 11 1925 CHAS. N. WILLIAMS, Clerk G F Gibson Deputy O. V. Wilson Washington Bldg Atty for Deft Guy Rockwell & Ira L. Brunk 321 W 3rd St, Atty for Ercole Maglioni

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

UNITED STATES OF)	
AMERICA,	)	: No. 5739-B Crim.,
)	
Plaintiff,)	
)	
-vs-	)	WRIT OF
	)	ERROR
GUY L. ROCKWELL, &)	
ERCOLE MAGLIONI,)	
Defendants,)	

* * * * *

UNITED STATES OF AMERICA,- ss

The President of the United States of America to
the Honorable Judge of the District Court of the
United States, in and for the Southern District of
California, Southern Division GREETING:

Because in the record and proceedings, as also in
the rendition of the judgment of a plea which is in
the said District Court before you between Guy L.
Rockwell and Ercole Maglioni, plaintiffs in error, and
the United States of America, defendants in error, a
manifest error hath happened to the great damage of
said Guy L. Rockwell and Ercole Maglioni, plaintiffs
in error, as by their complaint appears:

We being willing that error, if any hath happened,
should be duly corrected and full and speedy justice
be done to the parties aforesaid, in this behalf do com-
mand you, if judgment be therein given, that *the*,
under your seal, distinctly and openly, you send the

record and proceedings aforesaid with all things concerning the same to the United States Circuit Court of Appeals for the Ninth Circuit, together with this writ, so that you have the same at the city of San Francisco, in the state of California, within thirty days from the date hereof, in the said Circuit Court of Appeals to be then and there held, that the record and proceedings aforesaid, being inspected, the said Circuit Court of Appeals may cause further to be done therein to correct that error what of right and according to laws and customs of the United States should be done.

WITNESS the Honorable Wm Howard Taft Chief Justice of the United States, this Eleventh day of May in the year of our Lord, One thousand, nine hundred and twenty five and the year of our Independence the one hundred and Forty ninth

Chas N Williams

Clerk of the District Court of the United
[Seal] States for the Southern District of
California.

R S Zimmerman

Deputy

Writ allowed May 11, 1925

Wm P James

Judge

I HEREBY CERTIFY that a copy of the within Writ of Error was on the 11th day of May 1925 lodged in the office of the clerk of the said United States District Court, for the Southern District of

California, Southern Division, for said Defendants in Error.

(Seal)

CHAS. N. WILLIAMS

Clerk of the District Court of the United
States for the Southern District of
California,

BY: G. F. Gibson

Deputy Clerk.

[Endorsed]: Original—No. 5739-B. Criminal IN
THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF CALIFOR-
NIA SOUTHERN DIVISION UNITED STATES
OF AMERICA, Plaintiff, -vs- GUY ROCKWELL
& ERCOLE MAGLIONI, Defendants, WRIT OF
ERROR FILED MAY 11 1925 CHAS. N. WIL-
LIAMS, Clerk G F Gibson Deputy O. V. Wilson,
Washington Bldg. Atty for Defendant Gy Rockwell.
& Ira L. Brunk, 321 W. 3rd St. atty for Ercole
Maglioni

No.....

Filed.....

Viol: Opium Act of Feb. 9, 1909 as amended May 26,
1922 and Sec. 37 of Federal Penal Code—Con-
spiracy to violate Harrison Narcotic Act of Dec.
17, 1914 as amended Feb. 24, 1919, and Opium
Act of Feb. 9, 1909 as amended May 26, 1922;

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

At a stated term of said Court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Southern Division of the Southern District of California, on the second Monday in January, in the year of our Lord one thousand nine hundred and twenty-three:

The Grand Jurors of the United States of America chosen, selected and sworn, within and for the Division and District aforesaid, on their oaths present:

That GUY ROCKWELL and ERCOLE MAGLIONE, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the Grand Jurors unknown, each late of the Southern Division of the Southern District of California, heretofore, to-wit: on or about the 27th day of February, A. D. 1923, at Los Angeles, Los Angeles County, within the state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, willfully, unlawfully and feloniously receive a certain narcotic drug, to-wit: three (3) ounces of cocaine, which was then and there subject to importation duty by law and which, on importation, should have been invoiced and declared, and which cocaine had theretofore been clandestinely brought, smuggled and imported by certain

person or persons whose names are to the Grand Jurors unknown, into the United States from a foreign country, the name of said foreign country and the place of importation being to the Grand Jurors unknown, without the payment or arrangement for the payment of said duty thereon and without the said cocaine having been invoiced and declared, the said defendants then *a* and there well knowing that the said cocaine had been so clandestinely brought, smuggled and imported into the United States without the duty having been paid thereon and without any arrangement having been made for the payment of said duty, and without the said cocaine having been invoiced and declared, contrary to law; and the said cocaine was then and there a salt, derivative and preparation of coca leaves; in violation of the Act of February 9, 1909 as amended May 26, 1922, known as the Opium Act;

Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

SECOND COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That GUY ROCKWELL and ERCOLE MAGLIONE, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the Grand Jurors unknown, each late of the Southern Division of the Southern District of California, heretofore, to-wit: on or about the 27th day of February,

A. D. 1923, at Los Angeles, County of Los Angeles, within the state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, willfully, unlawfully and feloniously conceal a certain narcotic drug, to-wit: about three (3) ounces of cocaine, which was then and there subject to importation duty by law and which, on importation, should have been invoiced and declared, and which cocaine had theretofore been clandestinely brought, smuggled and imported by certain person or persons whose names are to the Grand Jurors unknown, into the United States from a foreign country, the name of said foreign country and the place of importation being to the Grand Jurors unknown, without the payment or arrangement for the payment of said duty thereon and without the said cocaine having been invoiced and declared, the said defendants then and there well knowing that the said cocaine had been so clandestinely brought, smuggled and imported into the United States without the duty having been paid thereon and without any arrangement having been made for the payment of said duty, and without the said cocaine having been invoiced and declared, contrary to law; and the said cocaine was then and there a salt, derivative and preparation of coca leaves; in violation of the Act of February 9, 1909 as amended May 26, 1922, known as the Opium Act;

Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

THIRD COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That GUY ROCKWELL and ERCOLE MAGLIONE, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the Grand Jurors unknown, each late of the Southern Division of the Southern District of California, heretofore, to-wit: on or about the 27th day of February, A. D. 1923, at Los Angeles, County of Los Angeles, within the state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, willfully, unlawfully and feloniously facilitate the transportation of a certain narcotic drug, to-wit: about three (3) ounces of cocaine, which was then and there subject to importation duty by law and which, on importation, should have been invoiced and declared, and which cocaine had theretofore been clandestinely brought, smuggled and imported by certain person or persons whose names are to the Grand Jurors unknown, into the United States from a foreign country, the name of said foreign country and the place of importation being to the Grand Jurors unknown, without the payment or arrangement for the payment of said duty thereon and without the said cocaine having been invoiced and declared, the said defendants then and there well knowing that the said cocaine had been so clandestinely brought, smuggled and imported into the United States without the duty having been paid

thereon and without any arrangement having been made for the payment of said duty, and without the said cocaine having been invoiced and declared, contrary to law; and the said cocaine was then and there a salt, derivative and preparation of coca leaves; in violation of the Act of February 9, 1909 as amended May 26, 1922, known as the Opium Act;

Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

FOURTH COUNT.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That GUY ROCKWELL and ERCOLE MAGLIONE, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the Grand Jurors unknown, each late of the Southern Division of the Southern District of California, heretofore, to-wit: on or about the the 25th day of February, A. D. 1923, at Los Angeles, County of Los Angeles, within the state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, willfully, unlawfully, corruptly, fraudulently and feloniously conspire, combine, confederate and agree together and with various and sundry other persons to the Grand Jurors unknown, to commit certain offenses against the United States, to-wit:

1. The offense of knowingly, willfully, unlawfully and feloniously dealing in and distributing certain nar-

cotics, to-wit: about three (3) ounces of cocaine without having registered and paid the special tax as required and imposed by Section One of an Act of Congress approved February 24, 1919, amending an Act of Congress approved December 17, 1914 and known as the Harrison Narcotic Act; the said defendants being then and there persons required to register and pay the special tax under and by the above said Act and Section One thereof, and the said defendants then and there having in their possession and under their control as such dealers, with intent to deal in and distribute the said narcotic drug not then and there contained in the original stamped package having affixed thereto and bearing thereon appropriate tax stamps as required by the said Harrison Narcotic Act, the said cocaine being then and there a compound, salt, derivative and preparation of coca leaves;

2. The offense of knowingly, willfully, unlawfully and feloniously receiving a certain narcotic drug, to-wit: three (3) ounces of cocaine, which was then and there subject to importation duty by law and which, on importation, should have been invoiced and declared, and which cocaine had theretofore been clandestinely brought, smuggled and imported by certain persons whose names are to the Grand Jurors unknown into the United States from a foreign country, the name of said foreign country and the place of importation being to the Grand Jurors unknown, without the payment or arrangement for the payment of said duty thereon and without the said cocaine having been invoiced and declared, the said defendants then and

there well knowing that the said cocaine had been so clandestinely brought, smuggled and imported into the United States without the duty having been paid thereon and without any arrangement having been made for the payment of said duty, and without the said cocaine having been invoiced and declared, contrary to law; the said cocaine being then and there a salt, derivative and preparation of coca leaves; in violation of the Opium Act of February 9, 1909 as amended May 26, 1922;

3. The offense of knowingly, willfully, unlawfully and feloniously concealing a certain narcotic drug, to-wit: about three (3) ounces of cocaine, which was then and there subject to importation duty by law and which, on importation, should have been invoiced and declared, and which cocaine had theretofore been clandestinely brought, smuggled and imported by certain persons to the Grand Jurors unknown, into the United States from a foreign country, the name of said foreign country and the place of importation being to the Grand Jurors unknown, without the payment or arrangement for the payment of said duty thereon and without the said cocaine having been invoiced and declared, the said defendants then and there well knowing that the said cocaine had been so clandestinely brought, smuggled and imported into the United States without the duty having been paid thereon and without any arrangement having been made for the payment of said duty and without the said cocaine having been invoiced and declared, contrary to law; the said cocaine being then and there a

salt, derivative and preparation of coca leaves; in violation of the Opium Act of February 9, 1909 as amended May 26, 1922;

4. The offense of knowingly, willfully, unlawfully and feloniously facilitating the transportation of a certain narcotic drug, to-wit: about three (3) ounces of cocaine, which was then and there subject to importation duty by law, and which, on importation, should have been invoiced and declared, and which cocaine had theretofore been clandestinely brought, smuggled and imported by certain persons whose names are to the Grand Jurors unknown, into the United States from a foreign country, the name of said foreign country and the place of importation being to the Grand Jurors unknown, without the payment or arrangement for the payment of said duty thereon and without the said cocaine having been invoiced and declared, the said defendants then and there well knowing that the said cocaine had been so clandestinely brought, smuggled and imported into the United States without the duty having been paid thereon and without any arrangement having been made for the payment of said duty, and without the said cocaine having been invoiced and declared, contrary to law, and the said cocaine was then and there a salt, derivative and preparation of coca leaves; in violation of the Opium Act of February 9, 1909 as amended May 26, 1922;

All of which said offenses are more particularly defined by Sections One and Eight of the Harrison Nar-

cotic Act as aforesaid and the Opium Act as aforesaid;

And all of which said cocaine was then and there a compound, manufacture, salt, derivative and preparation of coca leaves;

The said conspiracy, combination, confederation and agreement was continuously, throughout all of the times mentioned in this Indictment, in operation and existence;

OVERT ACT NO. I.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That thereafter, in furtherance of the said conspiracy, and to effect the object thereof, and on or about the 25th day of February, A. D. 1923, at Los Angeles, Los Angeles County, within the state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, the defendant GUY ROCKWELL went to the home of one Emil Linnert;

OVERT ACT NO. II.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That thereafter, in furtherance of the said conspiracy, and to effect the object thereof, and on or about the 25th day of February, A. D. 1923, at Los Angeles, Los Angeles County, within the state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, the defendant GUY ROCKWELL went to the home of one Clyde Ewing;

OVERT ACT NO. III.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That thereafter, in furtherance of the said conspiracy, and to effect the object thereof, and on or about the 27th day of February, A. D. 1923, at Los Angeles, County of Los Angeles, within the state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, the said defendants, GUY ROCKWELL and ERCOLE MAGLIONE met the said Clyde Ewing at the Lasky Studios;

OVERT ACT NO. IV.

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present:

That thereafter, in furtherance of the said conspiracy, and to effect the object thereof, and on or about the 27th day of February, A. D. 1923, at Los Angeles, County of Los Angeles, within the state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, the defendants, GUY ROCKWELL and ERCOLE MAGLIONE gave to the said Clyde Ewing a small quantity of cocaine;

Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

JOSEPH C. BURKE

United States Attorney

Mark L. Herron

Assistant United States Attorney

[Endorsed]: No. 5739B UNITED STATES DISTRICT COURT, Southern District of California Southern Division. THE UNITED STATES OF AMERICA vs. GUY ROCKWELL and ERCOLE MAGLIONE INDICTMENT Viol: Opium Act of Feb. 9, 1909 as amended May 26, 1922 and Sec. 37 Fed. Penal Code—Conspiracy to violate Harrison Narcotic Act of 12/17/14 as amended 2/24/19 and Opium Act of 2/9/09 as amended 5/26/22 A true bill, Dean Mason, Foreman. FILED Jun 8—1923 CHAS. N. WILLIAMS, Clerk Louis J Somers Deputy Clerk. Bail, \$5000—

At a stated term, to wit: The July Term, A. D. 1923 of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Saturday the 20th day of October, in the year of Our Lord one thousand nine hundred and twenty-three.

Present:

The Honorable WM. P. JAMES District Judge.

UNITED STATES OF AMERICA, Plaintiff,	} No. 5739-B Crim.
vs.	
Guy Rockwell and Ercole Maglione, Defendants.	

This cause coming on at this time for arraignment and plea of defendant Guy L. Rockwell; Russell Graham, Esq., Assistant United States Attorney, appearing as counsel for the Government, defendant Guy L. Rockwell being present in court and having been called, said defendant waives the reading of the In-

dictment and states his name to be as given therein; and, upon being required to plead, defendant Guy L. Rockwell interposes his plea of not guilty to each of the four counts of the Indictment; now, good cause appearing therefor, it is by the court ordered that this cause be continued to the December Calendar for setting for trial on each of the four counts as to defendant Guy L. Rockwell.

At a stated term, to wit: The July Term, A. D. 1925 of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Monday the 22nd day of October, in the year of Our Lord one thousand nine hundred and twenty-three.

Present:

The Honorable WM. P. JAMES District Judge.

UNITED STATES OF AMERICA, Plaintiff,	} No. 5739-B
vs.	
Guy L. Rockwell and Ercole Maglione,	
Defendants.	} Crim.

This cause coming on at this time for arraignment and plea of defendant Ercole Maglione; Russell Graham, Esq., Assistant United States Attorney, appearing as counsel for the Government; defendant Ercole Maglione being present in court on bail with Thomas Connell, Esq., who appears on behalf of Stanley Visel, Esq. and said defendant having been called waives the reading of the Indictment and states his name to be as given therein, and, upon being required to plead,

interposes his plea of not guilty; now, good cause appearing therefor, it is by the court ordered that this cause be continued to the December Calendar for setting for trial of defendant Ercole Maglione.

At a stated term, to wit: The January Term, A. D. 1925 of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Wednesday the 21st day of January, in the year of Our Lord one thousand nine hundred and twenty-five.

Present:

The Honorable BENJAMIN F. BLEDSOE District Judge.

UNITED STATES OF AMERICA, Plaintiff,	} No. 5739-B	
vs.		} Crim.
Guy Rockwell and Ercole Maglione, Defendants.		

This cause coming before the court for trial of defendants herein; J. Edwin Simpson, Esq., Assistant United States Attorney, appearing as counsel for the Government; defendants Guy Rockwell and Ercole Maglione being present in court on bail and Chas. Barnhart, Esq. appearing for defendant Ercole Maglione; L. Vaillancourt being also present in court in his official capacity as stenographic reporter of the testimony and proceedings, it is by the court ordered that a jury be impanelled herein, and thereupon the following twelve names are drawn from the jury box:

Neal Nettleship; Fred J. Blumle, Jr.; Geo. Guppy, R. W. Carter, A. H. Voight; Franklin Otis Booth;

M. A. Bresee; Chas. S. Gilbert; Edward I. Moore; Fred'k. O'Brien; Louis J. Harris and Walter R. Simons, and said petit jurors having been called and examined by the court and by J. E. Simpson, Esq. and Chas. Barnhart, Esq. in behalf of the Government, and defendants, respectively, for cause, and passed for cause, and counsel for the respective parties not having desired to peremptorily challenge the petit jurors now in the box, it is by the court ordered that said petit jurors be sworn in a body as the jury to try this cause, said jurors as sworn, consisting of the following persons, to wit:

THE JURY:

Neal Nettleship,	M. A. Bresee,
Fred J. Blumle, Jr.,	Chas. S. Gilbert,
Geo. Guppy,	Edward I. Moore,
R. W. Carter,	Fred'k O'Brien,
A. H. Voight,	Louis J. Harris,
Franklin Otis Booth,	Walter R. Simons,

At the hour of 10:45 o'clock A. M. the court admonishes the jury that during the progress of this trial they are not to speak to anyone about this cause or any matter or thing therewith connected; that until said cause is finally submitted to them for their deliberation under the instruction of the court they are not to speak to each other about this cause or any matter or thing therewith connected, or form or express any opinion concerning the merits of the trial until it is finally submitted to them, and declares a recess for five minutes; and at the hour of 10:50 o'clock A. M. the

court having reconvened and all being present as before,

J. Edwin Simpson, Esq. makes a statement of the Government's case, and witnesses having been called and excluded from the court room; and Arthur L. Veith, Esq. counsel for defendant Guy Rockwell being present,

Irwin S. Liner is called and sworn and testifies in behalf of the Government and is cross examined by Attorney Chas. Barnhart, Esq., and said witness having been examined by the court,

Clyde T. Ewing is called and sworn and testifies in behalf of the Government, and

In connection with his testimony there having been offered and marked for Identification in behalf of the Government the following exhibit, to wit:

Plaintiff's Ex. No. 1 for Identification: one bindle of cocaine;

At the hour of twelve o'clock noon the court gives to the jury herein the aforementioned admonition and declares a recess to the hour of two o'clock P. M. and at the hour of two o'clock P. M. the court having reconvened and all being present as before,

Witness Clyde T. Ewing resumes the stand, and in connection with his testimony there having been offered and marked for Identification in behalf of the Government the following exhibits to wit:

Plaintiff's Ex. No. 2 for Identification: one bottle cocaine—contents partly missing;

“ “ “ 3 for Identification: one bottle cocaine marked “1”;

“ “ “ 4 for Identification: one bottle cocaine marked “2”;

Said witness Clyde T. Ewing is cross examined by Attorney Chas. Barnhart, Esq., counsel for defendant Ercole Maglione, and said witness having been subjected to re-direct examination by J. Edwin Simpson, Esq. counsel for the Government,

Leo Green is called and sworn and testifies in behalf of the Government, and said Leo Green having been cross examined by Attorney Arthur L. Veitch, Esq.;

At the hour of 3:30 o'clock P. M. the court gives to the jury herein the aforementioned admonition and declares a recess for five minutes, and at the hour of 3:35 o'clock P. M. the court having reconvened and all being present as before,

Chandler Sprague is called and sworn and testifies in behalf of the Government, and in connection with his testimony exhibits Nos. 2, 3 and 4 heretofore offered and marked for Identification having been admitted in evidence,

Said Chandler Sprague is cross examined by Attorney Arthur L. Veitch, Esq. and said witness having thereupon been examined by the court,

At the hour of 4:30 P. M. the court again admonishes the jury and declares a recess to the hour of ten o'clock A. M. January 22nd, 1925.

At a stated term, to wit: The January Term, A. D. 1925 of the District Court of the United States of America, within and for the Southern Division of the

Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Thursday the 22nd day of January, in the year of Our Lord one thousand nine hundred and twenty-five.

Present:

The Honorable BENJAMIN F. BLEDSOE District Judge.

UNITED STATES OF AMERICA, Plaintiff,	} No. 5739-B Crim.
vs.	
Guy Rockwell and Ercole Maglione, Defendants.	

This cause coming before the court for further trial of defendants herein; J. Edwin Simpson, Esq., Assistant United States Attorney, appearing as counsel for the Government; defendant Guy Rockwell being present in court on bail with his attorney Arthur L. Veitch, Esq. and defendant Ercole Maglione being present in court with his attorney Chas. Barnhart, Esq., on bail; it is by the court ordered that the jury in this cause be temporarily withdrawn from the box pending impanellment of a jury in the case of Mike Jim No. 6683 Crim. and the jury in case No. 6683 Crim. having been impanelled, and the jury in this cause, to-wit: 5739-B, Crim., having returned to the box at the hour of 10:30 o'clock A. M., and all being present as before,

Albert F. Nathan is called and sworn and testifies in behalf of the Government, and said witness having been cross examined by Arthur L. Veitch, Esq. counsel for defendant Guy Rockwell,

The court admonishes the jury herein at the hour of 11:25 o'clock A. M. and declares a recess for five minutes, and at the hour of 11:30 o'clock A. M. the jury having returned and the court having reconvened, and all being present as before,

Harvey W. Bell is called and sworn and testifies in behalf of the Government, and is cross examined by Chas. Barnhart, Esq. counsel for the defendant Ercole Maglione, and said witness having been subjected to re-direct examination by J. Edwin Simpson, Esq. counsel for the Government.

At the hour of 12:10 o'clock P. M. the court admonishes the jury and declares a recess to 1:30 o'clock P. M. and at the hour of 1:30 o'clock P. M. the court having reconvened and all being present as before, and one of the jurors, Walter R. Simons, having informed the court of his illness, it is by the court ordered that an adjournment take place until the hour of ten o'clock A. M. January 23rd, 1925.

At a stated term, to wit: The January Term, A. D. 1925 of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Friday the 23rd day of January, in the year of Our Lord one thousand nine hundred and twenty-five.

Present:

The Honorable BENJAMIN F. BLEDSOE District Judge.

UNITED STATES OF AMERICA, Plaintiff,	} No. 5739-B	
vs.		
Guy Rockwell and Ercole Maglione,		} Crim.
Defendants.		

This cause coming on at the hour of ten o'clock A. M. for further trial before this court and a jury heretofore impanelled herein; J. E. Simpson, Esq., Assistant United States Attorney, appearing as counsel for the Government; defendant Guy Rockwell being present in court with attorney Arthur L. Veitch, Esq. and defendant Ercole Maglione being present in court with attorney Chas. Barnhart, Esq.; L. Vailancourt being also present in court in his official capacity as stenographic reporter of the testimony of the proceedings, and the jury all being present,

Harvey W. Bell resumes the witness stand and having been further cross examined by Chas. Barnhart, Esq. in behalf of the defendant Ercole Maglione,

Wm. R. Wood is called and sworn and testifies in behalf of the Government, and in connection with his testimony there having been offered and admitted in evidence in behalf of the Government the following exhibit, to wit:

Plaintiff's Ex. No. 1—One bindle cocaine heretofore marked for identification;

V. H. DeSpain is called and sworn and testifies in behalf of the Government, and said witness having been examined by the court,

F. H. Stribbling is called and sworn and testifies in behalf of the Government and

Cecil G. Bills having been called and sworn and having testified in behalf of the Government, and having been cross examined by Arthur L. Veitch, Esq.,

C. E. Peoples is called and sworn and testifies in behalf of the Government, and said witness having been cross examined by Arthur L. Veitch, Esq.,

At the hour of 11:05 A. M. the court gives to the jury herein the admonition, as heretofore, and declares a recess for five minutes, and at the hour of 11:10 o'clock A. M. the jury having returned into court and the court having reconvened and the court having ordered that this trial be proceeded with,

C. E. Peoples resumes the witness stand and is further cross examined by Attorney Arthur L. Veitch, Esq. and is thereupon examined by the court; and

The Government having rested,

Byron C. Hanna is called and sworn and testifies in behalf of the defendants, and said witness having been cross examined by J. Edwin Simpson, Esq.,

Asa Keyes is called and sworn and testifies in behalf of the defendants, and said witness having been cross examined by J. Edwin Simpson, Esq. in behalf of the Government,

W. J. Ford is called and sworn and testifies in behalf of the defendants; and

Guy L. Rockwell having been called and sworn and having testified in his own behalf,

At the hour of twelve o'clock noon the court admonishes the jury and declares a recess to the hour of 1:30 o'clock P. M. and at the hour of 1:30 o'clock P. M. the jury having returned to the court room and

the court having reconvened and all being present as before,

John W. Summerfield is called and sworn and testifies in behalf of the defendants; and

Albert Lee Stephens having been called and sworn and having testified in behalf of the defendants,

Defendant Guy L. Rockwell resumes the witness stand, and said witness having testified in his own behalf,

At the hour of 2:05 o'clock P. M. the court admonishes the jury in this cause and declares a recess until the Grand Jury has reported, and at the hour of 2:30 o'clock P. M. the court having reconvened in this cause and the jury being present,

Defendant Guy L. Rockwell resumes the witness stand and testifies further in his own behalf, and said defendant having been cross examined by J. Edwin Simpson, Esq., in behalf of the Government, and examined by the court,

At the hour of five o'clock P. M. the court gives to the jury the aforementioned admonition and declares a recess to the hour of ten o'clock A. M. January 27th, 1925.

At a stated term, to wit: The January Term, A. D. 1925, of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Tuesday the 27th day of January, in the year of Our Lord one thousand nine hundred and twenty-five.

Present:

The Honorable BENJAMIN F. BLEDSOE, District Judge.

UNITED STATES OF AMERICA, Plaintiff,	}	No. 5739-B. Crim.
vs.		
Guy Rockwell and Ercole Maglione, Defendants.		

This cause coming before the court for further trial; J. Edwin Simpson, Esq., Assistant United States Attorney, appearing as counsel for the Government; Defendant Guy Rockwell being present in court with his attorney Arthur L. Veitch, Esq and defendant Ercole Maglione being present in court with attorney Chas. Barnhart, Esq.; L. Vaillancourt being also present in court in his official capacity as stenographic reporter of the testimony and proceedings, and the jury being present, and the court having ordered that this trial be proceeded with,

Defendant Guy Rockwell is recalled to the witness stand and is examined by the court and by juror Nettleship, and having been examined by his attorney Arthur L. Veitch, Esq.,

Herman O. Miller is called and sworn and testifies in behalf of the defendants, and said witness having been cross examined by J. Edwin Simpson, Esq. counsel for the Government,

Ercole Maglione is called and sworn and testifies in behalf of the defendants, and

At the hour of 11:30 o'clock A. M. the court having declared a recess for five minutes and at the hour of 11:35 o'clock A. M. the court having reconvened and all being present as before, and the jury being present,

Defendant Ercole Maglione resumes the witness stand and testifies in behalf of the defendants; and

At the hour of twelve o'clock noon the court having admonished the jury and declared a recess to 1:30 o'clock P. M. and at the hour of 1:30 o'clock P. M. the court having reconvened and all being present as before and the jury being present,

Defendant Ercole Maglione resumes the witness stand and testifies in behalf of the defendants and is cross examined by J. Edwin Simpson, Esq. counsel for the Government, and said defendant having been examined by the jurors,

H. H. Dolley is called and sworn and testifies in behalf of the defendants, and said witness having been cross examined by J. Edwin Simpson, Esq. in behalf of the Government,

At the hour of 2:35 o'clock P. M. the court admonishes the jury and declares a recess for five minutes, and at the hour of 2:40 o'clock P. M. the court having reconvened and all being present as before, and the jury being present,

Guy Rockwell is recalled and said Guy Rockwell having been examined by juror Booth,

Geo. Hewston is called and sworn and testifies in behalf of the defendants, and said witness having been cross examined by J. Edwin Simpson, Esq., counsel for the Government,

Alfred K. Hewston is called and sworn and testifies in behalf of the defendants, and said witness having been cross examined by J. Edwin Simpson, Esq. counsel as aforesaid,

Walter Keating is called and sworn and testifies in behalf of the defendants, and said witness having been cross examined by J. Edwin Simpson, Esq.,

Frank W. Modie is called and sworn and testifies in behalf of the defendants, and at the hour of 3:25 o'clock P. M. the defendants having rested,

Defendant Guy Rockwell is recalled and is examined by Juror Guppy, and

Defendant Ercole Maglione having been recalled and examined by Juror Guppy,

At the hour of 3:37 o'clock P. M. the court admonishes the jury and declares a recess for fifteen minutes, and at the hour of 3:52 o'clock P. M. the court having reconvened and all being present as before, and the jury being present, on motion of Chas. Barnhart, Esq.,

It is by the court ordered that defendants be allowed to re-open the case; and

Edmund L. Smith, Deputy Clerk, having been called, sworn by the court and having testified and verified the record of this court,

Irwin S. Liner is recalled in rebuttal and testifies further for the Government, and said witness having been cross examined by Arthur L. Veitch, Esq. counsel for defendant Guy Rockwell,

Fred Harris is called and sworn and testifies in behalf of the Government, and in connection with his testimony there are offered and admitted in evidence in behalf of the Government the following exhibits, to wit:

Plaintiff's Ex. No. 5: Date Book of Lasky's Studio for
December, 1922,

“ “ “ 6: Date Book of Lasky's Studio for
January, 1923,

and,

Said witness Fred Harris having been cross examined by Attorney Arthur L. Veitch, Esq., counsel for defendant Guy Rockwell,

At the hour of 4:35 o'clock P. M. the court admonishes the jury as heretofore and declares a recess in this cause to the hour of ten o'clock A. M. January 28th, 1925.

At a stated term, to wit: The January Term, A. D. 1925 of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Wednesday the 28th day of January, in the year of Our Lord one thousand nine hundred and twenty-five.

Present:

The Honorable BENJAMIN F. BLEDSOE District Judge.

UNITED STATES OF AMERICA, Plaintiff,	} No. 5739-B.	
vs.		} Crim.
Guy Rockwell and Ercole Maglione,		
Defendants.		

This cause coming before the court for further trial; J. Edwin Simpson, Esq., Assistant United States Attorney, appearing as counsel for the Government; defendants Guy Rockwell and Ercole Maglione being

present in court, Chas. Barnhart, Esq. appearing for defendant Ercole Maglione, and L. Vaillancourt being also present in court in his official capacity as stenographic reporter of the testimony and proceedings, and the jury being present,

Herman O. Miller is recalled to the witness stand at the request of the court and is cross examined by J. Edwin Simpson, Esq. counsel for the Government, and said witness having been examined by the court,

Irwin S. Liner is recalled at the request of the court and is examined by J. E. Simpson, Esq., and the court, and said Irwin S. Liner having been cross examined by Chas. Barnhart, Esq. counsel as aforesaid,

At the hour of 10:30 o'clock A. M. J. Edwin Simpson, Esq. argues to the jury in behalf of the Government; and

At the hour of 11:10 o'clock A. M. the court having admonished the jury herein as heretofore and declares a recess for five minutes, and at the hour of 11:15 o'clock A. M. the court having reconvened and all being present as before and the jury being present,

At the hour of 11:20 o'clock A. M. Chas. Barnhart, Esq. argues for the defendants, and at the hour of 11:50 o'clock A. M. Attorney Arthur L. Veitch, Esq. having argued for the defendants, at the hour of 12:45 o'clock P. M. the court admonishes the jury as heretofore and declares a recess to the hour of 1:45 o'clock P. M. and at the hour of 1:45 o'clock P. M. the court having reconvened and all being present as before, the court instructs the jury herein with respect to the law

involved herein, and Attorney Arthur L. Veitch, Esq. having excepted to said charge,

At the hour of 2:50 o'clock P. M. the jury retire in custody of Bailiff Felix Clavere to deliberate upon their verdict; and

At the hour of 4:30 o'clock P. M. the jury having returned into court and asked if they have agreed upon a verdict, reply that they have so agreed, and, upon being required to present the same, the following verdict is presented and read by the clerk of the court:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION. United States of America, Plaintiff, vs. Guy Rockwell and Ercole Maglione, defendants. Verdict No. 5739 B. Cr. We, the jury in the above entitled case, find the defendant, Guy Rockwell, guilty as charged in the 1st count of the Indictment and guilty as charged in the 2nd count of the Indictment, and guilty as charged in the 3rd count of the Indictment and guilty as charged in the 4th count of the Indictment; and the defendant Ercole Maglione guilty as charged in the 1st count of the Indictment, and guilty as charged in the 2nd count of the Indictment, and guilty as charged in the 3rd count of the Indictment and guilty as charged in the 4th count of the Indictment. Los Angeles, California, January 28, 1925. Walter R. Simons, Foreman.
and

The verdict of each defendant herein of guilty on each of the four counts of the Indictment having been

presented and read by the clerk of the court, as aforesaid, and filed herein, it is by the court ordered that this cause be continued to the hour of ten o'clock A. M. February 2nd, 1925, for sentence of defendants Guy Rockwell and Ercole Maglione, and defendants having been ordered remanded into the custody of the United States Marshal, it is by the court ordered that the narcotics seized herein be returned to the Narcotic Agents for safe-keeping.

No.

The defendant in this case is presumed by law to be innocent of any crime until his guilt of such crime is established beyond all reasonable doubt.

And if you are not satisfied beyond a reasonable doubt of every essential and material element necessary to make up the crime, you must acquit him.

It is incumbent upon the prosecution to prove every material element of the *defense* beyond a reasonable doubt, and if you have such reasonable doubt as to whether they have proved or have failed to prove any one essential and material fact going to make up his guilt, it is your sworn duty to acquit the defendant.

It is by law considered better that any numbers of guilty persons should escape than to adopt a course under which an innocent man might be convicted, because of an erroneous conclusion of a court or jury.

Requested by the defendant and allowed.

Judge.

No.

It is your duty under the law if you can do so to adopt any reasonable theory of the evidence which admits of the defendants innocence, and you should never forget that the law only intends to punish criminals, and that it is the desire of the state that no man should be convicted about whose guilt there is a reasonable doubt.

Requested by the defendant and allowed.

Judge

No

The presumption of innocence prevails through the trial and it is the duty of the jury, if possible, to reconcile the evidence with this presumption.

The law presumes a man innocent of crime until he is proven guilty beyond a reasonable doubt; and the law also presumes that every act of the defendant charged with crime, is lawful and honest, and in determining the guilt of the defendant in this case, it is the duty of the jury to account for the actions and statements of the defendant as being lawful and innocent, if the same can be done by any reasonable or fair

construction of the whole evidence in the case. And if the jury after considering all the evidence in the case, entertains a reasonable doubt as to whether or

not the defendant is guilty then the jury should give the defendant the benefit of such doubt and acquit him.

Requested by the defendant and allowed.

Judge.

No

The court instructs the jury that it is not your duty to look for some theory upon which to convict the defendant, but on the contrary, it is your duty and the law requires you, if you can reasonably do so, to reconcile any and all circumstances that have been shown with the innocence of the defendant and acquit.

Requested by the defendant and allowed.

Judge.

No

The interest of the defendant in the result of the action does not deprive him of the benefit of his own testimony. The law makes him a competent witness in his own behalf, and his testimony is entitled to full and fair consideration by you, the same as that of any other witness, and is sufficient in itself, if it raises in your minds a reasonable doubt as to whether the crime charged was committed, to entitle the defendant to acquittal at your hands.

Requested by the defendant and allowed.

Judge.

No

The defendants have introduced evidence showing their good reputation for being honest, reputable and citizens of high standing. This evidence in itself is sufficient to raise in your minds a reasonable doubt as to the guilt of the defendants and if it so raises in your minds a reasonable doubt as to the guilt of the defendants, you should vote to acquit them, though no such reasonable doubt as to their guilt would have appeared to you were not this evidence as to their good reputation for being honest, reputable and citizens of good standing been produced before you.

Requested by defendant and allowed.

Judge.

No

Evidence of good character is evidence relevant to the question of guilt or non guilt, and is to be considered by you in connection with the other facts and circumstances in the case. One object in laying it before the jury is to induce the jury to believe from the improbability that a person of good character should have conducted himself as alleged, that there is some mistake or misrepresentation in the evidence on the part of the prosecution and in this connection you must take it into consideration.

Requested by the defendant and allowed.

Judge.

No

You are instructed that in no one thing does criminal law differ from civil law more than in the rule as to intent. In controversies between private parties, the intent with which a thing was done is sometimes important, not always; but crime proceeds only from a criminal mind, manifest in guilty intent.

There is only one criterion by which the guilt of a man is to be tested. It is whether the intent is criminal. It is a principle of our legal system that the essence of an offense is the wrongful intent without which it cannot exist. In recognition of this principle, it is provided in all penal codes that in every crime or public offense, there must exist a union and joint operation of act and intent, or criminal negligence. No amount of intention alone is criminal. No amount of action without the guilty intention is criminal.

Requested by the defendant and allowed.

Judge.

No

You are instructed that the common design is the essence of the charge of conspiracy and that it is necessary in order to establish a conspiracy, to prove a combination of two or more persons by consorted action to accomplish a criminal or unlawful purpose and unless such combination is shown beyond a reasonable doubt, you are to acquit the defendants.

Requested by the defendant and allowed.

Judge.

No

The jury are instructed that the essence of the crime of conspiracy is the intent and the agreement. Unlawful acts of individuals, no matter how numerous, cannot be called a conspiracy unless it appears that the minds of the persons committing such acts had previously met and agreed upon a common purpose, contemplating something unlawful, either as the final object of the agreement or as a means of accomplishing it. Therefore, even if you believe from the evidence that lawless acts were committed, still, unless it is proved beyond a reasonable doubt that the defendants, or some of them, had the intent and came to an agreement which tended to result in such acts, it is your duty to acquit the defendants; and moreover it is not sufficient to convict the defendants to prove even that they conspired to do lawless acts, but the intent itself to commit such unlawful acts must be shown beyond a reasonable doubt; otherwise it is your duty to acquit.

Requested by the defendant and allowed.

Judge.

No

You are instructed that the presumption of innocence with which the defendant is at all times clothed, is not a mere form to be disregarded by you at pleasure, but that it is an essential, substantial part of the law and binding on you in this case, and it is your duty in this case to give the defendant the full

benefit of this presumption, and to acquit the defendant, unless the evidence in the case convinces you of his guilt as charged beyond all reasonable doubt.

Requested by the defendant and allowed.

Judge.

No

The interest of the defendant in the result of the action does not deprive him of the benefit of his own testimony. The law makes him a competent witness in his own behalf, and his testimony is entitled to full and fair consideration by you, the same as that of any other witness, and is sufficient in itself, if it raises in your minds a reasonable doubt as to whether the crime charged was committed, to entitle the defendant to an acquittal at your hands.

Requested by the defendant and allowed.

Judge.

No

The defendant has introduced evidence of his good character as a man of truth, honesty and integrity. If, in the present case, the good character of the defendant for these qualities is proven to your satisfaction, it is to be considered by you in connection with the other facts in the case and it may be sufficient to create in your minds a reasonable doubt of his guilt,

although no such doubt whatever existed, but for such good character.

Requested by the defendant and allowed.

Judge.

No

The term reasonable doubt, as used in these instructions is defined by law as follows:

It is not mere possible doubt, because everything relating to human affairs, and depending on moral evidence is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty, of the truth of the charge. The burden of proof is upon the prosecutor. All the presumptions of law, independent of evidence, are in favor of innocence; and every man is presumed to be innocent until he is proven guilty, beyond a reasonable doubt. If upon such proof, there is a reasonable doubt remaining, the accused is entitled to the benefit of it by and acquittal, for it is not sufficient to establish a probability though a strong one arising from the doctrine of chances, that the fact charged is more likely to be true than the contrary; but the evidence must establish the truth of the fact to a reasonable and moral certainty—a certainty that convinces and directs the understanding, and satisfies the reason and judgment of those who are bound to act conscientiously upon it.

Each member of the jury must be entirely satisfied of the guilt of the defendant before they return a verdict of guilty of the offense embraced within the indictment.

Requested by the defendant and allowed.

Judge.

No

You are instructed that mere probabilities are not sufficient to warrant a conviction of the defendant, nor is it sufficient that the greater weight or preponderance of the evidence supports the charge against him; nor that upon the doctrine of chances it is more probable that the defendant is guilty than innocent; but to warrant a conviction of the defendant he must be proven to be guilty so clearly and conclusively that there is no reasonable theory under the law and the evidence upon which he can be innocent.

Requested by the defendant and allowed.

Judge.

No

You are instructed that under the law and the evidence in this case you may convict either or both of the defendants, provided the evidence convinces you beyond a reasonable doubt that those, the one to be convicted conspired together with some other persons or persons jointly indicted herein or you may find either or both not guilty.

Requested by the defendant and allowed.

Judge.

No

It is not your duty to look for some theory upon which to convict the defendant, but, on the contrary, it is your duty and the law requires you, if you can reasonably do so, to reconcile any and all circumstances that have been shown with the innocence of the defendant, and so acquit.

Requested by the defendant and allowed.

Judge.

[Endorsed]: 5739-B Cr United States of America
vs. Guy Rockwell and Ercole Maglione Defendant's
Instructions Refused Bledsoe J 1/27/25 FILED
JAN 27 1925 CHAS N. WILLIAMS Clerk Edmund
L. Smith Deputy

No

You are instructed that even though you find that the defendants may have committed some act in itself unlawful ,nevertheless, if you can reconcile such act, in the light of its surrounding circumstances, with an intent to accomplish an ultimate design in itself lawful, and find that there was a lack of guilty intent, you must acquit the defendants.

Requested by the defendants and allowed.

Judge.

No

You are instructed that an act in order to be unlawful must proceed from a wilfully unlawful intent on the part of the defendants to commit some act known to them to be unlawful; unless this guilty intent is clearly established beyond any reasonable doubt in your minds, you must acquit the defendants.

Requested by the defendants and _____ allowed.

Judge.

No

You are instructed that evidence of good character is in itself just as important evidence as any other evidence that may be introduced and if such evidence when introduced raises in your minds any reasonable doubt as to the guilt or innocence of the defendants you must acquit them.

Judge.

No

You are instructed that, even though you find from the evidence that the defendants did have in their possession certain narcotics which they offered to others, nevertheless, unless you find that there was an intent to commit a crime or if you find that their intent was to assist the ends of justice you must acquit them.

Requested by the defendants and _____ allowed.

Judge

[Endorsed]: 5739-B Cr. U. S. A. vs Guy Rockwell, and Ercole Maglione Defendants' requested Instructions—Refused FILED JAN 28 1925 Chas N. Williams, Clerk Edmund L. Smith Deputy

IN THE DISTRICT COURT OF THE UNITED
STATES FOR THE SOUTHERN DISTRICT
OF CALIFORNIA SOUTHERN
DIVISION.

United States of America, Plaintiff,)	
)	
Vs. ~	)	VERDICT.
)	
Guy Rockwell, and Ercole Maglione,	)	No. 5739-B-Cr.
)	
Defendants.)	

We, the Jury in the above-entitled case, find the defendant, Guy Rockwell

Guilty as charged in the 1st count of the Indictment,
and

Guilty as charged in the 2nd count of the Indictment,
and

Guilty as charged in the 3rd count of the Indictment, and

Guilty as charged in the 4th count of the Indictment;
and the defendant, Ercole Maglione,

Guilty as charged in the 1st count of the Indictment,
and

Guilty as charged in the 2nd count of the Indictment,
and

Guilty as charged in the 3rd count of the Indictment,
and

Guilty as charged in the 4th count of the Indictment,
Los Angeles, California, January 28, 1925.

Walter R. Simons

FOREMAN.

FILED JAN 28 1925 Chas. N. Williams, Clerk
Edmund L. Smith Deputy

At a stated term, to wit: The January Term, A. D. 1925 of the District Court of the United States of America, within and for the Southern Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, on Monday the 2nd day of February, in the year of Our Lord one thousand nine hundred and twenty-five.

Present:

The Honorable BENJAMIN F. BLEDSOE, District Judge.

UNITED STATES OF AMERICA, Plaintiff,	} No. 5739-B Crim.
vs.	
Guy Rockwell and Ercole Maglione, Defendants.	

This cause coming before the court for sentence of defendants herein; Russell Graham, Esq., Assistant United States Attorney, appearing as counsel for the Government; defendants Guy Rockwell and Ercole Maglione being present in court in the custody of the United States Marshal with their attorneys Arthur L. Veitch, Esq., and Chas. Barnhart, Esq., Attorney Arthur L. Veitch, Esq., presents motion for new trial, and said motion having been denied and an exception having been noted in behalf of defendants herein, the

court pronounces sentence upon defendants Guy Rockwell and Ercole Maglione for the crime of which they stand convicted, namely, conspiracy to violate Harrison Narcotic Act of December 17th, 1914, as amended February 24th, 1919, and Opium Act of February 9th, 1909 as amended May 26th, 1922, and it is the judgment of the court that each defendant herein stand committed to the United States Penitentiary at Leavenworth, Kansas, for the term and period of two years on each count of the Indictment, sentences to run concurrently and that each defendant pay unto the United States of America, a fine in the sum of one dollar on each of the first, second and third counts of the Indictment; and it is further ordered by the court that said defendants Guy Rockwell and Ercole Maglione be granted a ten day stay of execution of sentence.

In the District Court of the United States
IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA.
SOUTHERN DIVISION.

UNITED STATES OF AMERICA,	}	No. 5739-B. Crim.
Plaintiff,		
<i>vs.</i>		
Guy Rockwell and Ercole Maglione	}	
Defendants.		

I, CHAS. N. WILLIAMS, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing to be a full, true, and correct copy of an original JUDGMENT en-

tered in the above-entitled cause; and I do further certify that the papers hereto annexed constitute the JUDGMENT ROLL in said cause.

ATTEST my hand and the seal of said District Court, this 17th day of March A. D. 1925

(Seal)

CHAS. N. WILLIAMS

Clerk.

By B. B. Hansen

Deputy Clerk.

[Endorsed]: No. 5739-B Crim. IN THE DISTRICT COURT of the United States for the Southern District of California Southern Division. United States of America Plaintiff, vs. Guy Rockwell and Ercole Maglione, Defendants. JUDGMENT ROLL. Filed MAR 17 1925 CHAS. N. WILLIAMS, Clerk By B. B. Hansen Deputy Clerk Recorded Min. Book No. 57 Page 246

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

	* * * * *	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs	)	ORDER.
)	
GUY L. ROCKWELL & ERCOLE)	
MAGLIONI,)	
Defendants.)	

Upon the reading and filing of the affidavit of Guy L. Rockwell, one of the defendants above named and

it appearing to the Court that good cause exists therefor:

IT IS HEREBY ORDERED, that an Assignment of Errors identical with that served upon United States Attorney on June 30, 1925, be and the same is hereby ordered filed nun pro tunc as of the date of issuance of the Writ of Error now in force herein.

DATED this 28 day of July 1925.

Wm. P James
Judge.

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

* * * * *

UNITED STATES OF)	
AMERICA,)	
Plaintiff,	)	NO. 5739-B. Crim.
)	
-vs-	)	AFFIDAVIT OF DE-
	)	FENDANT GUY L.
GUY L. ROCKWELL &	)	ROCKWELL.
ERCOLE MAGLIONI,)	
Defendants.)	
STATE OF CALIFORNIA,)	
	)	ss.
COUNTY OF LOS ANGELES.)	

Guy L. Rockwell being first duly sworn deposes and says:

That he is one of the defendants above named; that on or about the 12th day of May 1925, a mandate

issued out of the United States Circuit Court of Appeals for the Ninth *District*, dismissing the appeal of the above named defendants, which had theretofore been filed and that said mandate contained a clause granting to the defendants the right to renew their Writ of Error and perfect a new appeal; that at said time the affiant was in a sanitarium and under a physician's care being treated for neuritis and was unable at that time and for many days thereafter to attend to any of his business affairs and that the general health of affiant since such time has been such that he has been unable to competently or efficiently administer his own business affairs; that previous to said 12th day of May 1925, or on or about April 3, 1925, affiant retained O. V. Willson a regularly practicing attorney to represent both the above named defendants on a Hearing of the Motion to Dismiss the first appeal and thereafter to perfect the second appeal; that said O. V. Willson took all of the files and papers in said case with him to Imperial County with the explicit promise to affiant that a Bill of Exceptions would be prepared and filed in due time, but that on or about June 4, 1925, said O. V. Willson without any warning to affiant withdrew from said case and returned the files to affiant notwithstanding the fact that he had been paid in excess of Two Hundred Dollars (\$200.00) toward his fees in said proceeding; that there was not time enough remaining thereafter within which to prepare and file a Bill of Exceptions and that an examination of the record in the case

shows that the second Writ of Error was issued without an assignment of errors being filed; that thereafter affiant retained Stanley Visel who now represents the defendants to perfect said appeal, and upon examination of the record and upon ascertaining that said Writ of Error now in force had been issued without the filing of assignment of errors, said Stanley Visel entered into negotiations with the United States Attorney looking toward the making of a stipulation allowing said assignment of errors to be filed *nun pro tunc* as to the date of issuance of said Writ of Errors; that up to this time said Stanley Visel has been unable to secure said stipulation, and that affiant makes this affidavit as the basis for an order allowing said assignment of errors to be so filed *nun pro tunc* as of the date of issuance of said Writ of Error.

Guy L. Rockwell

Subscribed and sworn to before me this 28th day of July 1925.

[Seal]

Stanley Visel

[Endorsed]: 5739B- IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIV. UNITED STATES OF AMERICA, Plaintiff, vs GUY L. ROCKWELL & ERCOLE MAGLIONI, Defendants. AFFDAVIT AND ORDER. FILED JUL 29 1925 CHAS. N. WILLIAMS, Clerk G. F. Gibson Deputy ORIGINAL STANLEY VISEL ATTORNEY AT LAW LOS ANGELES BROADWAY 5767 608 Law Bldg.

ORIGINAL
IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

THE UNITED STATES)

OF AMERICA)

Plaintiff.)

vs.)

GUY L. ROCKWELL, and)
ERCOLE MAGLIONI,)

Defendants.)

Criminal No. 5739 B.

) ASSIGNMENT OF
) ERRORS BY DEFEND-
) ANTS GUY ROCK-
) WELL AND *ECOLE*
) MAGLIONI.

Guy L. Rockwell and Ercole Maglioni, the above named defendants and plaintiffs in error herein, having petitioned for an order from the above named Court permitting them to procure a Writ of Error therefrom, directed to the United States Circuit Court of Appeals for the Ninth Circuit, from a judgment and sentence made and entered in said cause against the said Guy L. Rockwell and *Ecole* Maglioni, plaintiffs in error and petitioners herein, now make and file with their said petition the following assignments of error upon which they will rely for a reversal of the said judgment and sentence upon the Writ of Error and which said errors and each and every one of them, are to the great detriment, injury and prejudice of the said defendants and in violation of the rights conferred upon them; and they say that in the record of the proceedings had in the above entitled cause

upon the hearing and determination thereof in the District Court of the United States for the Southern District of California, Southern Division, there is manifest error in this, to-wit:

The District Court of the United States in and for the Southern District of California, Southern Division, erred in each and every one of its rulings and decisions (to which exceptions were duly taken and allowed) now here separately and specifically set out and numbered: said rulings and decisions to which exceptions were taken being as follows, to-wit:

I.

In instructing the jury as follows, to-wit:

“Now this is a matter of some importance because it will be determinative of the judgment to be pronounced by this Court if your verdict in this case is to the effect that these defendants were guilty of the crime of conspiracy. If you believe that they were actuated, not by good faith as they say, but that they were actuated by a design and a purpose and intent to effect a sale and distribution of narcotics and not to bring to light violators of the law, and you so find and convict them of the crime of conspiracy, as charged in the fourth count, then this Court will pronounce upon them a sentence that will be in keeping with that conclusion on your part, and, I have no hesitancy in saying at all that any persons in this Court charged with and convicted of dealing in narcotics receives a penitentiary sentence. On the other hand, if these defendants were not concerned with the crime of conspiracy and they were acting in good faith,

even though they did pursue and follow methods that were illegal and that were not open and available to them, but that they did this thing in good faith, but, nevertheless, violated the law,—if you believe that and convict them of these other counts in the transaction which have to do merely with the receiving and concealing and the transporting of narcotics without any authorization from the law, and acquit them of the crime of conspiracy, then I will feel that the violation that they have been guilty of is only a technical violation of the law and made necessarily so merely because of the fact that none may do these things, officer of the law or otherwise, and in such event, if you acquit them of the crime of conspiracy and find them guilty of other counts, I shall administer only a fine because, in my judgment, that will be adequate.”, to which instruction an exception was taken and allowed.

II.

In colloquy between the Court and counsel concerning such exception, the jury was further instructed as follows:

“Mr. Veitch: Expressing my personal opinion in the matter, I believe that an exception should be noted on behalf of the defendants and each of them to that portion of the Court’s charge wherein, referring to the matters of receiving, concealing and facilitating the transportation of narcotics, the element of the presence or absence of a corrupt intent is ignored in the charge, and that the jury are not instructed that the absence of a criminal intent in these matters would necessitate an

acquittal, and that upon that matter, the Court hasn't instructed the jury that if the reception, concealment or the facilitation of transportation of such were shown to be pretended or under a guise and not an actual reception, concealment or facilitation of transportation with the intent to violate the law, then that upon those points the jury, not being satisfied beyond a reasonable doubt of the fact, should acquit. That is said rather haltingly.

The Court: Well, I grasp the point. Your theory is that if the defendants were trying to sell narcotics to somebody so that they could arrest that person, they could receive narcotics and transport them?

Mr. Veitch; No, my point is that if the reception or concealment or transportation were merely apparent and not real—

The Court: But, in this case it was shown they had received the narcotics, they had concealed them in the automobile and they had transported them.

Mr. Veitch; The fact that it is susceptible in this interpretation that it was merely pretended; that in that the reception was made for the officers of the law, the concealment was made for the officers of the law, the facilitation of the transportation was made for the officers of the law in the due administration of justice and these men were merely agents and acting without any authority in fact didn't receive or conceal or transport as an actuality, then under my impression of the statute I feel that the Court should instruct the jury that the defendants should be acquitted.

The Court: Well, I don't think that is the law. These defendants were not authorized by any officers to do anything of the sort. In my judgment no officer would have authority to authorize them to do the thing that they did.

Mr. Veitch; Exception."

to which instruction exception was taken and allowed.

III.

In instructing the jury as follows: to-wit:

The Court: If you believe, beyond a reasonable doubt that these defendants themselves endeavored to effect a sale or distribution of narcotics, not in good faith for the purpose of bringing others to the bar of justice, not in good faith for the purpose of finding out, if possible, malefactors or suspected malefactors, of a violation of the law, if you believe that beyond a reasonable doubt, then you ought to convict them. (referring to conspiracy charge).

Now, there are other things charged against the defendants and with respect to these other things, there isn't really very much in the way of a conflict in the evidence. The defendants are charged in the first count with receiving narcotics; they are charged in the second count with selling narcotics and they are charged in the third count with facilitating, that is, making possible the transportation of narcotics and it is obvious to me—I don't think there is any conflict about it—that they did these things; just exactly as to the degree of responsibility of each of these defendants is a matter for you.

Seemingly they were working together in complete cooperation with respect to the things that they actually did in the particular behalf that I have mentioned, and seemingly, in so far as that is concerned, each are equally responsible. There might be a different punishment to be pronounced on them but seemingly the degree of legal responsibility would be the same but, that is a matter for you, however. You are to determine that by your verdict.

Now, the defendants have said, without any authorization from the officers, so far as that is concerned, *any* authorization that they could go and get narcotics, receive narcotics, and sell narcotics and transport narcotics and deliver narcotics for the purpose of bringing to light violations of the law—the defendants have asserted that they did this thing for the laudable motive of bringing to light known or suspected violations of the law, but they admit that they did that without any authorization from the officers and it must be latent to you that the officers themselves could not give them any authorization to do this thing. Why, the Sheriff of Los Angeles County himself would have no right or authority to go and get somebody to provide him or some one of his deputies or some of us with narcotics and then take those narcotics out and sell them to somebody for the purpose of arresting the person to whom it is sold. The Sheriff of Los Angeles wouldn't have the right to do that and these defendants, even at best, are pernicious intermeddlers in the enforcement of the law here in our midst and they had no business—taking their story at its best and

assuming the correctness of the statements made by them as to their good faith and as to the honesty of their intention—they had no business, and particularly this defendant, the lawyer, had no business to engage in any such nefarious transaction, no authority for it, and if you believe beyond reasonable *dout*, even though they were acting in good faith, that they received narcotics, that they concealed narcotics, that they facilitated the transportation of narcotics, you ought to find them guilty of that, even though you may believe that they were acting in good faith and that they had no corrupt intention and were not guilty of conspiracy.”

to which instruction exception was taken and allowed.

IV.

The Court erred in refusing to permit the witness Byron C. Hanna to answer as to his knowledge of the reputation of the defendant Rockwell for truth in the community, while said witness Byron C. Hanna was upon the stand, his testimony being as follows, to-wit:

DIRECT EXAMINATION

BY MR VEITCH:

Q You are an attorney at law?

A I am.

Q A member of the law firm of Fredericks & Hanna?

A Yes,

Q Of which Mr. John D. Fredericks is your partner?

A Yes

Q You have been in practice for about how many years?

A About seventeen years.

Q And as part of your early experience were you in the District Attorney's office of this County?

A I was, for two years and a half.

* * * * *

Q Now Mr. Hanna, from your knowledge or acquaintance with Mr. Rockwell this defendant, and his friends and acquaintances, do you know his general reputation in this community for truth, honesty and—

THE COURT: How is the question of veracity involved? There is no law for bolstering up the testimony of a witness in that way unless it is attacked. You know that the trait involved in this case is his willingness to obey the law, a law-abiding citizen. Veracity is not involved here.

MR. VEITCH: My understanding is, your Honor, that I have a right before the attack, to put on the evidence as to proof—

THE COURT: Where is the authority for it, to bolster up the testimony of the witness previous to his being attacked at this time? Where is the authority?

MR. VEITCH: I have no authority.

THE COURT: You find it and then present the evidence. There is no such law. I never heard of it.

MR. VEITCH: Exception.

THE COURT: Go on.

to which instruction exception was taken and allowed.

V.

The court erred in refusing to grant the motion for a new trial herein for each and everyone of the reasons set forth in said motion.

VI.

The court erred in refusing to give each and every instruction requested by the defendants and refused by the court.

Dated at Los Angeles, California this day of January, 1925.

Arthur L Veitch

Chas A Barnhart

Ira L Brunk

Attorneys for defendants Guy Rockwell
& Ecole Maglioni

We hereby certify that the foregoing assignment of error is made on behalf of the petitioners for a writ of error herein and are in our opinion well taken and the same now constitutes the assignment of errors upon the writ prayed for.

Arthur L Veitch

Chas A Barnhart

Ira L Brunk

Attorneys for defendants Guy Rockwell
& Ecole Maglioni

[Enodrsed]: ORIGINAL Criminal No. 5739B-
IN THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF CALIFOR-
NIA SOUTHERN DIVISION. U. S. OF AMER-
ICA, Plaintiff vs. GUY L. ROCKWELL and ERCOLE

MAGLIONI. Defendants ASSIGNMENT OF ERRORS BY DEFENDANTS GUY L. ROCKWELL AND ERCOLE MAGLIONI FILED MAY-11-1925 CHAS. N. WILLIAMS, Clerk G. F. Gibson Deputy ARTHUR L. VEITCH Attorney at Law 517-18-19 Hollingsworth Building 608 South Hill Street Los Angeles, Cal.

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

UNITED STATES OF)		
AMERICA,	:	
Plaintiff,	)	No. 5739-B Crim.,
	:	
-vs-)	
	:	PETITION OF DEFEND-
GUY L. ROCKWELL &)		ANTS FOR
ERCOLE MAGLIONI,	:	WRIT OF ERROR.
Defendants,)	

* * * * *

TO THE HONORABLE *CUICUIT* COURT OF APPEALS, UNITED STATES OF AMERICA, NINTH CIRCUIT:

Your petitioners, Guy L. Rockwell and Ercole Maglioni, the defendant in the above entitled cause, bring this, their petition for a writ of error, to the District Court of the United States, in and for the Southern District of California, and in this behalf your petitioners respectfully show:

That on the 2nd day of February, 1925, there was made, given and entered in the above entitled court and cause a judgment against your petitioners whereby your petitioner Guy L. Rockwell was *order* to be imprisoned for a period of two (2) years on the first count, and a period of two (2) years on the second count, and a period of two (2) years on the third count, and a period of two (2) years on the fourth count; and your petitioner Ercole Maglioni was adjudged and sentenced to be imprisoned for a period of two (2) years on the first count, and a period of two (2) years on the second count, and a period of two (2) years on the third count, and a period of two (2) years on the fourth count, and your petitioners say that they are advised by their counsel and aver that there was and is manifest error in the records and proceedings had in said cause, and in the giving, making and entering of such judgments and sentences to the great injury and damage of your petitioners, and each of them and each and all of which errors will be more fully made to appear by an examination of said records and by an examination of the Bill of Exceptions and Assignments of Errors which are filed with this petition, and to the end that the judgments, sentences and proceedings may be reviewed by the United States Circuit Court of Appeals for the Ninth Circuit, your petitioners, and each of them pray that a writ of error may be issued, directed therefrom to the said District Court of the United States for the Southern District of California, Southern Division, return-

able according to law and the practice of the Court, and that there may be directed to be returned pursuant thereto a true copy of the record. Bill of Exceptions, Assignment of Errors and all proceedings had, or to be had in said cause, and that the same may be removed unto the Circuit Court of Appeals of the United States for the Ninth Circuit, to the end that error, if any has happened, may be duly corrected and full and speedy justice done your petitioners and each of them.

And that your petitioners make a part of this petition, the Assignment of Errors, filed herewith, upon which they, and each of them, will rely and which will be made to appear by a return of the said record in obedience to said writ.

WHEREFORE your petitioners, and each of them, pray the issuance of a writ as herein prayed and that the Assignment of Errors filed herewith may be considered as their Assignment of Errors upon the writ, and that the judgments rendered in this cause may be reversed and held for naught and that said cause be remanded for further proceedings and that they and each of them be awarded a supersedeas upon said judgment and all necessary process, including bail pending the hearing and determination of said Writ of Error.

O. V. Willson

Guy L. Rockwell

Ira L. Brunk

Ecole Maglioni

Attorneys for Petitioners.

Petitioners.

[Endorsed]: Original. No. 5739-B. Criminal IN
THE DISTRICT COURT OF THE UNITED
STATES SOUTHERN DISTRICT OF CALIFOR-

NA SOUTHERN DIVISION UNITED STATES
OF AMERICA, Plaintiff, -vs- GUY ROCKWELL &
ERCOLE MAGLIONI, Defendants. PETITION
OF DEFENDANTS FOR WRIT OF ERROR.
Filed May 11 1925 CHAS. N. WILLIAMS, Clerk
G F Gibson Deputy O. V. Wilson Washington
Bldg. Atty for Defendant Guy Rockwell Ira L.
Brunk 321 W. 3rd St. Atty for Defendant Ercole
Maglioni.

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

UNITED STATES OF)	
AMERICA, :	
Plaintiff,)	
:	No. 5739-B Crim.,
-vs-)	
:	
GUY ROCKWELL &)	ORDER ALLOWING
ERCOLE MAGLIONI, :	WRIT.
)	
Defendants, :	

* * * * *

On this 11th day of May, 1925, came the defend-
ants by their attorneys and filed herein and presented
to the court their petition praying for the allowance
of a writ of error intended to be urged by them; pray-
ing also that a transcript of the record, proceedings
and papers upon which the judgment herein was ren-
dered be made, duly authenticated, and sent to the
United States Circuit Court of Appeals for the Ninth

Judicial Circuit, and that such other and further proceedings may be herein had as may be proper in the premises.

On consideration whereof, it is ordered by the court that the said writ of error be and is hereby allowed, and that said writ of error shall operate as a supersedeas, and that no further proceedings shall be had in this cause in this court until the final determination thereof in the said United States Circuit Court of Appeals, upon the filing of the approval by the court of a good and sufficient bond in the penal sum of Ten thousand dollars (\$10,000.00) each, which bond shall operate as a supersedeas bond.

Wm P James

United States District Judge.

[Endorsed]: Original No. 5739-B Criminal IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFORNIA SOUTHERN DIVISION. UNITED STATES OF AMERICA, Plaintiff -vs- GUY ROCKWELL & ERCOLE MAGLIONI, Defendants, ORDER ALLOWING WRIT FILED MAY 11 1925 CHAS. N. WILLIAMS, Clerk G. F. Gibson Deputy O. V. Wilson Washington Bldg. Atty for Deft Guy Rockwell Ira L Brunk 321 W 3rd St Atty for Deft Ercole Maglioni.

IN THE DISTRICT COURT OF THE UNITED
STATES, IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION

UNITED STATES OF)	
AMERICA, :	
Plaintiffs)	No. 5739-B Crim.,
:	
-vs-)	
:	
GUY ROCKWELL &)	SUPERSEDEAS BOND.
ERCOLE MAGLIONI, :	
Defendants,)	

* * * * *

KNOW ALL MEN BY THESE PRESENTS:

That we, Ercole Maglioni as principal, and Cono Macchiaroli and Mattios Sarin as surities, are held and bound unto the United States of America in the penal sum of Ten thousand (\$10,000) dollars to be paid to the United States of America, to which payment well and truly to be made we do bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 11th day of May in the year of our Lord One thousand nine hundred and twenty-five.

WHEREAS, Lately at a session of the District Court of the United States in and for the Southern District of California, Southern Division, sitting at Los Angeles, in a suit pending in said court between the United States of America, plaintiff and Guy Rock-

well and Ercole Maglioni, defendants, a judgment was rendered against the said Guy Rockwell and Ercole Maglioni on the 2nd day of February, A. D. 1925; and

WHEREAS, the said Ercole Maglioni has sued out a writ of error from the Judgment of the said District Court of the United States in said cause No. 5739-B Crim., wherein the United States of America is plaintiff and the said Ercole Maglioni is defendant, for a review of the said judgment before and by the United States Circuit Court of Appeals for the Ninth Judicial Circuit.

NOW THEREFORE, if the said Ercole Maglioni shall personally be and appear before the said United States Circuit Court of Appeals for the Ninth Judicial Circuit on the first day of the regular term thereof, and appear from day to day thereafter during the said term and each and every subsequent term until the determination of said writ of error, and shall prosecute the said writ of error with due diligence, and shall appear and hear and abide by and perform any and all orders or order, mandates or mandate, decree or decrees, judgment or judgments which may be therein rendered, and shall not depart from the said district nor depart from its jurisdiction without due leave thereto first had and obtained, and if the judgment in the said cause is affirmed shall render himself in execution thereof, to and before the said District Court, then this recognizance shall be void, otherwise to remain in full force and effect.

Cono Macchiaroli, being first duly sworn deposes and says:

His X

Address 120 Santa Ana St

Subscribed and sworn to before me this 11th day of
May, 1925.

UNITED STATES COMMISSIONER.

I hereby approve the written undertaking as to form and as to sufficiency of Sureties therein.

(Seal) Raymond I Turney

UNITED STATES COMMISSIONER.

I hereby approve the foregoing bond.

Dated this 11th day of May, 1925.

Wm P James

United States District Judge.

[Endorsed]: Original No. 5739-B Criminal. IN THE DISTRICT COURT OF THE UNITED STATES SOUTHERN DISTRICT OF CALIFOR-

NIA SOUTHERN DIVISION. UNITED STATES OF AMERICA, Plaintiff, -vs- GUY ROCKWELL & ERCOLE MAGLIONI, Defendants, SUPERSEDEAS BOND FILED MAY 11 1925 CHAS. N. WILLIAMS, Clerk G F Gibson Deputy O. V. Wilson Washington Bldg. Atty for Deft Guy Rockwell & Ira L. Brunk 321 W 3rd St. Atty for Deft Ercole Maglioni.

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,
SOUTHERN DIVISION.

UNITED STATES OF)	
AMERICA,)	No. 5739-B Crim.,
Plaintiff,)	
) SUPERSEDEAS BOND.	
-vs-)	
)	
GUY ROCKWELL &)	
ERCOLE MAGLIONI,)	
Defendants.	

KNOW ALL MEN BY THESE PRESENTS:

That we, Guy Rockwell as principal, and Rosie Sanello and Joe Grabielle as sureties, are held and bound unto the United States of America in the penal sum of Ten Thousand (\$10,000.00) Dollars to be paid to the United States of America, to which payment well and truly to be made we do bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 20th day of May, in the year of our Lord One Thousand Nine Hundred and Twenty Five.

WHEREAS, Lately at a session of the District Court of the United States in and for the Southern District of California, Southern Division, sitting at Los Angeles, in a suit pending in said Court between the United States of America, plaintiff, and Guy Rockwell and Ercole Maglioni, defendants, a judgment was rendered against the said Guy Rockwell and Ercole Maglioni on the 2nd day of February, A. D. 1925: and

WHEREAS, the said Guy Rockwell has sued out a writ of error from the Judgment of the said District Court of the United States in said cause No. 5739-B Crim., wherein the United States of America is plaintiff and the said Guy Rockwell is defendant, for a review of the said judgment before and by the United States Circuit Court of Appeals for the Ninth Judicial Circuit.

NOW THEREFORE, if the said Guy Rockwell shall personally be and appear before the said United States Circuit Court of Appeals for the Ninth Judicial Circuit on the first day of regular term thereof, and appear from day to day thereafter during said term and each and every subsequent term until the determination of said writ of error, and shall prosecute the said writ of error with due diligence, and shall appear and hear and abide by and perform any and all orders or order, mandates or mandate, decree or decrees, judgment or judgments which may be therein

rendered, and shall not depart from the said district nor depart from its jurisdiction without due leave thereto first had and obtained, and if the judgment in said cause is affirmed shall render himself in execution thereof, to and before the said District Court, then this recognizance shall be void, otherwise to remain in full force and effect.

WITNESS our hands at Los Angeles, California, this 20th day of May, 1925.

Guy Rockwell

Principal.

Rosie Sandello

His Mark Joe Gabrielle

X

Sureties.

UNITED STATES OF AMERICA)

SOUTHERN DISTRICT OF CALIFORNIA)

) SS

Rosie Sandello, being first duly sworn, deposes and says:

That she is a householder in said Southern District of California, and she is well worth the sum of Ten Thousand Dollars (\$10,000.00) and is worth the amount specified in the above undertaking as the penalty thereof, over and above all her just debts and liabilities, and exclusive of property exempt from execution.

Assets

Mrs. Rosie Sandello
1324 Lawrence St.
3 Lots Lorraine and
Concord streets

Assets

Joe Gabrielle
2159 E 11 st
Lots 49-50-51
P. J. Brannen Tract

Value \$21,000 Clear
Separate property,
Widow

Value \$45,000 Clear
Separate property,
Widower

Rosie Sandello

Address 1324 Lawrence St.

L. A.

Subscribed and sworn to before me this 20 day of
May, 1925.

Raymond I. Turney

UNITED STATES COMMISSIONER.

UNITED STATES OF AMERICA)
) SS
SOUTHERN DISTRICT OF CALIFORNIA)

Joe Grabielle, being first duly sworn deposes and says:

That he is a householder in said Southern District of California, and is well worth the sum of Ten Thousand (\$10,000.00) dollars, and is worth the amount specified in the above undertaking as the penalty thereof, over and above all his just debts and liabilities, and exclusive of property exempt from execution.

Joe Gabrielle

His Mark

X

Address 2159 E 11th St.

L. A.

Subscribed and sworn to before me this 20 day of May, 1925.

Raymond I. Turney (SEAL)
UNITED STATES COMMISSIONER.

I hereby approve the written undertaking as to form and as to sufficiency of Sureties therein.

Raymond I. Turney
UNITED STATES COMMISSIONER.

I hereby approve the foregoing Bond.

Dated this 20 day of May, 1925.

Wm P James
UNITED STATES DISTRICT JUDGE.

[Endorsed]: (ORIGINAL) No. 5739-B Crim.
In The UNITED STATES DISTRICT COURT
Southern District of California Southern Division
UNITED STATES OF AMERICA, Plaintiff vs.
GUY ROCKWELL AND ERCOLE MAGLIONI
Defendants SUPERSEDEAS BOND Received copy
of within bond this 18th day of May, 1925 FILED
MAY 20, 1925 CHAS. N. WILLIAMS, Clerk G. F.
Gibson Deputy J. Edwin Simpson Attorney for U. S.
of A. O. V. Willson, 508 Washington Building, At-
torney for Defendant, Guy Rockwell. Ira L. Brunk,
321 W. 3rd St., Attorney for Defendant, Ercole Magi-
lioni.

UNITED STATES OF AMERICA
District Court of the United States
SOUTHERN DISTRICT OF CALIFORNIA

United States of America	}	Clerk's Office
Plaintiff		
vs.	}	
Guy Rockwell and		No. 5739-B.—
Ercole Maglioni		
Defendants	}	Praecipe

TO THE CLERK OF SAID COURT:

Sir:

Please issue Citation, Writ of Error, Judgt. Roll, Assignment of Errors, Order with affidavit attached, Petition for Writ of Error, Order Allowing Writ of Error, (2) Supersedeas Bonds and Praecipe

Guy L. Rockwell

Stanley Visel

Atty for Defts.

[Endorsed]: No. 5739-B U. S. District Court
SOUTHERN DISTRICT OF CALIFORNIA United
States of America Pltff v. Guy Rockwell and Ercole
Maglioni Defts PRAECIPE FILED AUG 5, 1925
CHAS. N. WILLIAMS Clerk. By R S Zimmerman
Deputy Clerk.

IN THE DISTRICT COURT OF THE UNITED
STATES, SOUTHERN DISTRICT OF CALI-
FORNIA, SOUTHERN DIVISION.

UNITED STATES OF)	
AMERICA,)	
	)	CLERK'S
Plaintiff,)	
vs.)	
	)	CERTIFICATE.
GUY ROCKWELL & ERCOLE)	
MAGLIONI,)	
Defendants.)	

I, CHAS. N. WILLIAMS, Clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 75 pages, numbered from 1 to 75 inclusive, to be the Transcript of Record on Writ of Error in the above entitled cause, as printed by the plaintiffs-in-error, and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the citation, writ of error, judgment roll, assignment of errors, order with affidavit attached, petition for writ of error, order allowing writ of error, supesedeas bonds, and praecipe.

I DO FURTHER CERTIFY that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Writ of Error amount to and that said amount has been paid me by the plaintiffs-in-error herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, this day of August, in the year of Our Lord One Thousand Nine Hundred and Twenty-five, and of our Independence the One Hundred and Fiftieth.

CHAS. N. WILLIAMS,
Clerk of the District Court of the
United States of America, in
and for the Southern District
of California.

By

Deputy.

